

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

MILTON DWAYNE GOBERT,
TDCJ No. 999554,

Petitioner,

v.

BOBBY LUMPKIN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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Civil No. 1:15-CV-42-RP

* DEATH PENALTY CASE *


ORDER

Before the Court is Petitioner's Motion for Relief from Order Substituting Counsel (ECF No. 81). Citing Federal Rule of Civil Procedure 60(b), Petitioner seeks relief from this Court's May 3, 2022 Order (ECF No. 80) granting former counsels' motion to withdraw and appointing attorney Tivon Schardl from the Capital Habeas Unit as replacement counsel. According to Petitioner, Mr. Schardl's appointment was obtained through the fraud, misrepresentation, and misconduct of former counsel, and he requests that the Court modify the order to: (1) omit all references to previous counsels' performance, and (2) provide that Mr. Schardl's appointment would not be effective until October 2022. After careful consideration, the Court has determined Petitioner is not entitled to the relief requested.

Accordingly, it is hereby **ORDERED** that the Motion for Relief from Order Substituting Counsel filed May 11, 2022 (ECF No. 81) is **DENIED**.

To the extent Petitioner's motion seeks an extension of any briefing schedule on appeal, it is further **ORDERED** that the request is **DISMISSED WITHOUT PREJUDICE** to refile a similar motion with the Fifth Circuit Court of Appeals.

SIGNED this the 24th day of May, 2022.



ROBERT PITMAN
UNITED STATES DISTRICT JUDGE